***THE HON'BLE SRI JUSTICE P.S.NARAYANA**

–

+ WRIT PETITION No. 9047 of 1997

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% Dated 20.01.2005

1. Duda Ramesh and 4 others.

…….. Petitioners

$ 1. The State of Andhra Pradesh, rep. by its

Secretary to Government, Social Welfare,

Department, Secretariat Buildings,

Saifabad, Hyderabad.

……. Respondents

! Counsel for Petitioners : Mr.D.V.Sitha Ramamurthy

^ Counsel for Respondents : The G.P. for Social Welfare

< GIST:

> HEAD NOTE:

? Cases referred

1. AIR 1967 S.C. 115
2. 2001 (6) ALD 582
3. 2001 (5) ALD (DB)
4. 2003 (4) ALD 25

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 9047 of 1997

Between:

1 Duda Ramesh, S/o.Duda Rajamanya Rao,
R/o. Vijayawada, Krishna District.
2 D. Suresh Chandra Sekhar, S/o. D.Rajamanya Rao,
R/o.Amalapuram, E.G.Dist.
3 D.Rajesh, S/o. D.Rajamanya Rao,
R/o. Bhanur, Medak dist.

4 D. Sathish, S/o. D.Rajamanya Rao,
R/o. Hyderabad.
5 D. Kamal Jagdish, S/o. D.Rajamanya Rao,
Amalapuram, E.G.Dist.

..... PETITIONERS

AND

1 The State of A.P., Rep.by it's Secretary to Govt.,
Social Welfare Dept.,
Secretariat Buildings , Saifabad ,Hyderabad.
2 The Director of Tribal Welfare
Andhra Pradesh, Hyderabad.
3 The Dist. Collector,
Kakinada, E.G.Dist.
4 The Mandal Revenue Officer,
Maredumilli, E.G.Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or order or direction more particularly one in the nature of Writ of Certiorari to call for the records relating to and connected with proceedings of the 3rd Respondent in Ref.(B2)9385/93 dt.18.3.1997 and quash or set aside the same and pass

Counsel for the Petitioners: MR.D.V.SITARAMAMURTHY

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following :

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HONOURABLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No. 9047 of 1997

O R D E R:

Duda Ramesh and others, the writ petitioners, prayed for the issuance of appropriate writ, order or direction, more particularly one in the nature of writ of Certiorari to call for the records relating to and connected with the proceedings of the third respondent in Ref.(B2)9385/93 dated 18.03.1997 and quash the same and pass suitable orders.

2. The third respondent-District Collector by the aforesaid impugned order had ultimately arrived at a conclusion after recording certain reasons that the writ petitioners, belong to Adi Andhra by Caste and Christian by religion, who come under BC-C category but not Valmiki (ST)

as claimed by them and hence in exercise of the powers conferred on him as per Section 5 (1) of the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act of 1993, cancelled Valmiki (S.T.) Community Certificate obtained by them on different occasions from the Tahsildar, Rampachodavaram Mandal and the Mandal Revenue Officer, Maredumilli. The said order is assailed on several grounds.

3. Sri D.V.Sitharam Murthy, the learned counsel representing the petitioners, would contend that the 3rd respondent did not offer reasonable opportunity to the petitioners and the very enquiry is vitiated for the violation of principles of natural justice. The learned counsel also would maintain that though the 3rd respondent was the competent authority, even prior to the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act of 1993 (for brevity 'the Act of 1993') coming into force, the fact remains that the impugned order was made in exercise of the power under Section 5 of the Act of 1993, even prior to the Act coming into force which cannot be sustained. The learned counsel for the petitioners also had drawn the attention of this Court to ***ABHOY PADA SAHA v. SUDHIR KUMAR*** and would contend that relevancy of surname would be very limited in an enquiry in relation to the issuance of Caste Certificate or cancellation thereof. The learned counsel for the petitioners had taken this Court through the reasons which had been recorded and commented that the reasons contained are totally

unsustainable. The learned counsel for the petitioners, while elaborating his submissions, had pointed to the instructions of the Government of India relating to the representation of SC, STs and services and also to the guidelines specified by the third respondent, in this regard. Further, the learned counsel for the petitioners had taken this Court through the contents of the affidavit filed in support of the writ petition and the stand taken in the counter affidavit and would contend that inasmuch as the impugned order cannot be sustained and the same is liable to be quashed and in the matter of this nature, the petitioners need not be driven to the remedy, if any, available for them to file an appeal or a revision, as the case may be, before the Government.

4. On the contrary, the learned Government Pleader for Social Welfare would contend that the mere fact that in the impugned order, Section 5(1) of the Act of 1993 had been referred to would not alter the situation in any way since even prior to the Act of 1993 coming into force, the 3rd respondent was the competent authority to pass the impugned order.

5. The learned counsel for the petitioners also had drawn the attention of this Court to the decision of this Court in W.A.No.267 of 2003 and would contend that even in such a case, the petitioners have a right to maintain revision under Section 8 of the Act of 1993 and hence, liberty

may be given to the petitioners to approach the appropriate authority.

6. The learned Government Pleader for Social Welfare also had taken this Court through the impugned order and had pointed out that in the light of the reasons recorded, this is not a case for interference and hence, the writ petition is liable to be dismissed.

7. Heard the counsel.

8. The father of the writ petitioners' Sri Duda Rajamanya Rao and his ancestors hail from Satlawada village in Maredumilly Mandal, East Godavari District which is an agency area and he belongs to Valmiki caste (S.T.) enumerated at Sl.No.31 of part I of Schedule of Constitution (Scheduled Tribes) Orders 1950. As it is a tribal area, there are people belonging to mostly Valmiki, Boya, Koya communities. The family of the petitioners owns agricultural land in Sy.No.32 in Satlawada village and their father joined service as postman in the erstwhile S.T. vacancy in the Telegraphic department and retired as postman and died on 30-03-1989.

9. It is further averred that the father of the petitioners married their mother belonging to Adi Andhra on 12-04-1956 and their father's family accepted their mother as part of the family and they left at Satlawada village for some time which is a remote undeveloped tribal village. Subsequent thereto, their parents moved to Rampachodavaram which is also an agency area. The relatives of their father reside at

Rampachodavaram. Satlawada village is about 35 KMs from Rampachodavaram and their parents were visiting Satlawada village on holidays, festivals etc., and their father never had converted to Christianity and continued to profess Hindu faith. All the petitioners are Hindus. The petitioners also had furnished several details relating to school education and college education and recording of their caste as Valmiki in the school records and securing seats under ST quota and the other details.

10. It is further specifically stated that the brothers of their father are residing presently at Rampachodavaram and Maredumilli. Their children are also enjoying the benefits of Scheduled Tribes. It is further stated that from time to time, the then Tasildar, Rampachodavaram, and also Mandal Revenue Officer, Maredumilli, issued certificates stating that the petitioners belong to Valmiki caste which is recognized as a Scheduled Tribe under the Constitution (Scheduled Tribe) Order, 1950. These certificates were issued after due verification and enquiry as per the prescribed procedure. The petitioners also had narrated certain other details relating to their employment. The third petitioner was appointed as Oversear in Bharat Dynamics Limited, Bhanur, Medak District, in 1991 under a post meant for S.T. As required the Manager (Personnel) by letter dated 26.08.1993 sent the Social Status Certificate produced by him for

the verification of the third respondent who in turn directed the Mandal Revenue Officer, Maredumilli, to cause enquiry. The Mandal Revenue Officer conducted enquiry and submitted a report stating that 'people with Duda surname have blood relations and matrimonial alliances with families having the surnames of Battula, Gorle, Kambham and Boraga and that the caste with surnames such as Duda, Battula, Gorle, Kambham and Boraga are recorded as 'Mala, Christian Agency Mala and Panchama' in the Birth and Death Registers and that the mother of the petitioners belonged to Adi Andhra community and that the family members of the petitioners had converted into Christianity. Hence, the petitioners do not belong to Valmiki caste.' On the strength of the said report, a show cause notice dated 24.08.1996 had been issued to the petitioners stating that the reference was made by the Manager(Personnel), M/s. Bharat Dynamics Limited, Bhanur, Medak District for verification of caste certificate and the Mandal Revenue Officer, Maredumilli conducted enquiry and submitted a report to the third respondent through the Sub-Collector, Rampachodavaram, stating that the father of the petitioners was born at satlawada village, Maredumilli Mandal and married a non-tribal by name K.Shantha Sumitra who belonged to Adi Andhra Community and their father possessed landed property in Satlawada village which belonged to their ancestors and the families with surname Duda have blood relation with families with such surnames as Battula, Gorle, Kambham and Borga

which are recorded as ‘Mala’, ‘Christian Agency Mala’ and ‘Panchama’ and that Mandal Revenue Officer, Maredumilli finally reported that the caste of the petitioners to be declared as Adi Andhra Christian. The third petitioner was directed to represent his case in person before the third respondent on 23.09.1996 and similar show cause notices were issued to the other petitioners too. It is specifically submitted that the report of the Mandal Revenue Officer, the Sub-Collector and the statements recorded by him etc., were not furnished to the petitioners.

11. It is further stated that the third petitioner went to the office of the third respondent on 13.09.1996 to enquire into the matter and he was informed that the District collector was preoccupied by urgent work and was asked to meet Husur-Seristhadar and accordingly the third petitioner met him. The Huzur-Seristhadar informed him that there was no cause to worry and that the third respondent would look into the matter and he may appear on 23.09.1996 along with other petitioners. Subsequent thereto, the petitioners appeared before the third respondent 23.09.1996 and the third petitioner was asked to submit a written explanation and they were not furnished with any material available for answering the show cause notice and expressed their inability to do so. The Huzur-Seristhadar said that the enquiry was only formal and it is sufficient if the petitioners filed the Caste Certificate issued by the Mandal Revenue Officer. On 24.09.1996, the

petitioners prepared a written explanation with the guidance of the Huzur-Seristhadar stating that they belong to Valmiki community and they own agricultural land at Satlawada. On 24.09.1996, the third respondent did not give any hearing. The Huzur-Seristhadar simply accepted their written explanation and stated that they may leave.

12. It is further stated that to their surprise, the third petitioner received the proceedings on 07.04.1997 issued by the third respondent, stating that the petitioners belong to Adi Andhra Caste and their religion is Christianity and they come under BC-C category and do not belong to Valmiki Caste as claimed.

13. The counter-affidavit is filed in detail, denying several allegations. It was specifically pleaded that the petitioners and their ancestors had been recorded in birth and death registers of Satlawada village as 'Mala Christian', Agency Mala and Adi-Andhra Christian. It is nowhere recorded as Valmiki in the basic revenue records like birth and death registers. The detailed enquiry conducted in the village by the Mandal Revenue Officer, Maredumilli also revealed that their caste is Adi-Andhra Christian. The caste recorded in the school records cannot be taken as conclusive proof as the school authorities will record the particulars like caste etc., as per the declaration furnished by the parent or guardian at the time of admitting the children into the elementary school without conducting any reliable

enquiries, as they have no option except to accept the declaration. The Valmiki (ST) Certificates issued to the petitioners by the then revenue authorities also cannot be taken into consideration as it was revealed in the enquiry that these certificates were issued in a routine manner even without verifying the basic revenue records like birth and death registers of the village.

14. Further, the then Mandal Revenue Officer issued the Valmiki Caste Certificates basing on the circular instructions by the Collector issued in R.Dis.No.05/3779/87, dated 20.02.1988 which was subsequently quashed by the High Court in judgment dated 03.09.1991 in W.P.No.14187 of 1988. It was also further pleaded in para 3 of the counter-affidavit that during the detailed enquiry conducted by the Mandal Revenue Officer, Maredumilli, the caste status of Duda Rajesh and his brothers was not established as Valmiki. The Caste of Duda Surname people was recorded as 'Adi-Andhra', 'Panchama' and 'Adi-Andhra Christian' etc., and it was no where recorded as Valmiki. The Caste status of 'Bathula', 'Gorle', 'Kambham' and 'Boraga' surname people with whom the Duda Surname people have marital and other relations was also recorded as Mala, Panchama, Agency Mala, Adi-Andhra Christian etc., Their Caste was not also registered as Valmiki in the basic revenue records. As per the instructions of the Government of India, Ministry of Home Affairs, Delhi in Lr.NO.DC/12025/2/76-SCT.1, dated 22.03.1977 for deciding the Caste

status of a person, proper verification of basic revenue records has to be done. In this case, the caste of the petitioners was not recorded as Valmiki in the basic revenue records. Sri Duda Rajesh, one of the petitioners, has personally verified connected records before the Huzur Serishtadar, Collectorate on 13.09.1996. The petitioners were provided the gist of all the enquiry reports in the show cause notice and they were directed to establish their caste claim. The petitioners have not asked for furnishing of copies of any record. If they have asked for any record that would have been supplied to them.

15. It is further pleaded in para 4 of the counter-affidavit that the petitioners were given ample opportunity including personal hearing before the Collector to represent their case and establishing their caste claim. The gist of caste verification reports was also furnished to the petitioners in the show cause notice itself. When the show cause notice had been issued to them, it is for the petitioners to establish their caste claim with reliable documentary evidence. But they failed to do so. They appeared before the Collector on 23.09.1996 and represented their case. Subsequently, they submitted their explanation dated 24.09.1996 along with Photostat copies of school records, previous community certificate etc., The explanation submitted was examined by the 3rd respondent and the case was decided on merits, declaring the caste of the petitioners as

Adi-Andhra Christian and specific findings had been recorded on each and every contention of the petitioners' explanation. Hence, the impugned order, passed by the 3rd respondent, in the present writ petition, is just, legal, proper and valid.

16. The specific grounds raised in the affidavit filed in support of the writ petition also had been met with specifically in the counter-affidavit commencing from paras 5 to 16. Specific stand was taken that the 3rd respondent was competent to cancel the caste certificate, as per the G.O.Ms.No.282 Social Welfare (J2) Dept., dated 19.12.1988 after following the due procedure, which had been followed in the present case. Further specific stand was taken that the petitioners attended before the 3rd respondent on 23.09.1996 i.e., on the day of personal hearing.

17. There is no serious controversy that the Act came into force on 16.05.1997 and the impugned order dated 18.03.1997 was made prior to the Act coming into force.

18. In **A.P.Scheduled Tribes Employees Association v. Aditya Pratap Bhanj Dev**, it was held that:

> "The Act regulates issue of Community Certificates to persons belonging to SCs., STs., and BCs. In exercise of the power under sub-section (1) of Section 20 of the Act, the Governor had made Rules in G.O.Ms.No.58, Social Welfare, dated 12-8-1997 known as A.P. Scheduled Castes, Scheduled Tribes and Backward Classes – Issue of Community, Nativity and Date of Birth Certificates Rules, 1997. The competent authority shall issue community certificate on receipt of applications. Section 4 of the Act provides for issue of certificates by the competent authority. Rule 5 of the Rules provides for elaborate enquiry/verification before an integrated community certificate is issued under Section 4 of the Act. When any authority

has a reason to believe either suo motu or on a written complaint that any community certificate was obtained fraudulently, it is only the District Collector who can initiate enquiry under the Act. Such enquiry shall be conducted in accordance with Rules 8 and 9 of the Rules. Section 21 of the Act provides that unless a community certificate is cancelled in accordance with the provisions of the Act, the community certificate issued by any authority shall be valid and the same shall be deemed to have been issued under the provisions of the Act."

19. In **J.Krushnam Raju v. Commissioner of Tribal Welfare Department, A.P., Hyderabad,** it was held that:

"Therefore, we must hold that after coming into force of the Act on 16-5-1997 the Commissioner of Tribal Welfare is not competent authority to enquire into the correctness of community certificates nor cancel the same. As per Section 5 of the Act, it is only the District Collector who is competent to do so. But, as per proviso to Section 5 of the Act where enquiry into the genuineness of the community certificate issued prior to commencement of the Act has commenced and is pending on the date of commencement of the Act, the record thereof shall be transferred by the concerned authority to the district Collector, who shall conduct an enquiry and conclude the same as per the provisions of the Act. In the case on hand, however, it is not done. The office of the commissioner has communicated the order passed in October, 1994 to the petitioner on 6.4.2001 instead of communicating the record to the District Collector. The learned Government Pleader for Social Welfare submits that the same is not vitiated."

20. Act No.16 of 1993 (Act of 1993) though came into force subsequent to the passing of the impugned order, the third respondent made the impugned order exercising the power under Section 5(1) of the Act of 1993.

21. No doubt submissions at length were made in this regard by both the counsel.

22. The learned counsel for the petitioners contended that in that view of the matter the impugned order is liable to be quashed for want of competency. The learned Government Pleader for Social Welfare, on the other hand,

contended that this will not alter the situation in view of the fact that even prior thereto third respondent was competent authority to make the impugned order. Further, submissions were also made relating to the competent authority under the present Act of 1993 and also different provisions of the Act of 1993 as such. Section 2 of the Act of 1993 deals with the definitions. Section 2(1) of the Act of 1993 defines Schedule Castes and Schedule Tribes, which reads as hereunder:

> "*Scheduled castes and scheduled tribes"* shall have the meanings respectively assigned to them in clause (24) and clause (25) of Article 366 of the Constitution of India."

23. Section 5 of the Act of 1993 deals with the cancellation of the false community certificate, which reads as hereunder:

> "**Cancellation of the false Community Certificate:**- - (1) Where, before or after the commencement of this Act a person not belonging to any of the Scheduled Castes, Scheduled Tribes or Backward classes has obtained a false Community Certificate to the effect that either himself or his children belongs to such Castes, Tribes or Classes, the District Collector may either suo motu or on a written complaint by any person, call for the record and enquire into the correctness of such certificate and if he is of the opinion that the certificate was obtained fraudulently, he shall, by notification, cancel the certificate after giving the person concerned an opportunity of making a representation:
>
> Provided that where an enquiry into the genuineness of a community certificate issued prior to the commencement of this Act has commenced and is pending at such commencement, the record thereof shall be transferred by the concerned authority to the District Collector and he shall continue the enquiry and conclude the same under this sub-section.
>
> (2) The powers of the nature referred to in sub-section (1) may also be exercised by the Government."

24. Section 6 of the Act of 1993 deals with burden of proof, which reads as hereunder:

> "**Burden of Proof:--** It is the responsibility of the applicant to produce necessary evidence/documents while applying in Form I/II to the Competent Authority and also as called for by the competent Authority/Scrutiny and Review Committee at the State level/District Collector/Scrutiny committees at the District level/Government, from time to time, while enquiring in to the claims for the issue of Community, Nativity and date of Birth Certificate."

25. Section 21 of the Act of 1993 deals with Transitional Provisions, which reads as hereunder:

> "**Transitional Provisions:--** A community certificate issued by any authority competent to issue the same under the relevant rules or orders before the commencement of this Act shall, unless it is cancelled under the provisions of this Act, be valid and shall be deemed to have been issued under the provisions of this Act."

26. The A.P. S.C. S.T. and Backward Classes – Issue of Community, Nativity and Date of Birth Certificates Rules, 1997 (for brevity 'the Rules of 1997') were made in exercise of the powers under Section 20 of the Act of 1993. Section 20 of the Act of 1993 reads as follows:

> "**Power to make rules**:-- (1) The Government may by notification make rules for carrying out all or any of the purposes of this Act.
>
> (2) Every rule made under this Act shall immediately after it is made be laid before the legislative Assembly of the State, if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment's notified, have effect only in such modified form or shall stand annulled, as the case may be, so however, that any such modification or annulment shall be without

prejudice to the validity of anything previously done under that rule."

27. Rule 4 of the Rules of 1997 deals with Procedure for Application, which reads as hereunder:

"**Procedure for Application:** (a) Every applicant/parent/guardian who belongs to a Scheduled Caste, Scheduled Tribe, Backward Class, desirous of declaring his social status as that of a Scheduled Caste, Scheduled Tribe or a Backward Class, shall submit an application in the prescribed Form I/II to-Competent Authority, well in advance i.e., six months, as far as possible, particularly when seeking admission to the educational institutions or appointment to a post.

(b) if the applicant is a minor, the parent/guardian shall submit the application form as mentioned in clause (a) above.

28. Rule 6 of the Rules of 1997 deals with burden of proof, which reads as hereunder:

"**Burden of Proof:--** Where an application is made to the competent authority under Section 3 for the issue of a community certificate in respect of Scheduled Castes, Scheduled Tribes or awkward Classes or in any enquiry conducted by the competent authority or the authority empowered to cancel the community certificate or the appellate authority under this Act or in any trial or offence under this Act, the burden of proving that he belongs to such Caste, Tribe or Class shall be on the claimant."

29. Rule 14 of the Rules of 1997 deals with Exercising or Powers of Civil Courts, which reads as follows:

"**Exercising or Powers of Civil Courts:--** The Competent Authority/the Appellate Authority/the Scrutiny and Review Committee at the State level/Scrutiny committees at the District level/Government shall exercise the powers of Civil Courts under the code of Civil Procedure, 1908 in summoning the witnesses as defined in Section 9 of the Act in addition to

(a) Receiving evidence on affidavit;

(b) Summoning and examining any person or documents;

c. Making local enquiry and inspections."

30. In ground No.(h) of the affidavit filed in support of the writ petition, it was specifically pleaded that the petitioners were denied reasonable opportunity since the report of the Mandal Revenue Officer, the Sub-Collector, the statements stated to be recorded by the Mandal Revenue Officer etc were not furnished. The requirement of reasonable opportunity cannot be said to have been fulfilled by requiring the petitioners to inspect the records having regard to the nature of enquiry and the serious consequences involved. No opportunity was given for perusing the records etc as alleged. Having regard to the complicated nature of enquiry etc., the 3rd respondent was bound to furnish copies of reports, statements etc and a mere allegation that the petitioners were permitted to peruse the records is not sufficient compliance of the requirement of fair hearing.

31. No doubt in the counter affidavit, stand had been taken that reasonable opportunity had been given and personal hearing also had been given. However, in para-3 of the counter affidavit, it was stated that the petitioners were provided with the gist of all the enquiry report in show-cause-notice and they were directed to establish their claim but the petitioners had not asked for furnishing of copy of any record and if they had asked for any record that would have been supplied to them.

32. In the light of the stand taken in the counter affidavit, it is clear that the petitioners were not furnished with the reports and the statements and reliance

was placed by the 3rd respondent on them while making the impugned order. In ***BHAKTHA VATHSALA SUKUMAR v. HINDUSTAN PETROLEUM CORPORATION LTD,*** this Court held that the non-furnishing of report while canceling the Caste Certificate, would amount to the violation of principles of natural justice.

33. Apart from this aspect of the matter, no doubt, strong reliance was placed by the petitioners on certain guidelines issued by the 3rd respondent, subsequent to the passing of the impugned order, on Clause 28 of the Instructions, issued by the Government of India, Ministry of Home Affairs, vide Memo No.1/2/61 SCT(1), dated 27-04-1962, and Clause 28 specifies as hereunder:

> "No person who professes a religion different from the Hindu or Sikh religion shall be deemed to be a member of the Scheduled Castes. The right of a person belonging to a Schedule Tribe are independent of his religious faith."

34. On the strength of this clause, submissions at length were made that religion is immaterial while deciding the social status relating to the Scheduled Tribe Caste.

35. In W.A.No.267 of 2003, a Division Bench of this Court by its Judgment dated 27-06-2003, no doubt, observed that the right to maintain the revision under Section 8 of the Act of 1993, even in such matters, would be available on the ground that the power is supervisory in nature and the State Government can exercise such power since in Section 8 of the Act of 1993, no

where it is said that orders passed, after the Act of 1993 coming into force, can be revised by the State Government.

36. In the decision (cited one supra), the Supreme Court held while dealing with Article 341 of the Constitution of India (Scheduled Castes) Order, 1950, Sch., Part 13, Item 40– that “Suri excluding Saha” – Meaning – “Saha” in the expression refers to a caste group within the Suri caste. It is a smaller caste group within the larger caste group of Suri – Surname is irrelevant as a test for applying item 40 unless it is shown that it indicated a smaller caste group of Sunris.

37. Strong reliance was placed by the petitioners on this decision to show that the findings of the 3rd respondent cannot be sustained, since the very cancellation was made on the principal ground of the surname, in view of the fact that since the same being irrelevant. This Court is not inclined to express any opinion relating to this aspect. But, however, on appreciation of the impugned order and the respective pleadings of the parties, this Court is satisfied that reports and the statements had not been furnished and no reasonable opportunity had been given by the 3rd respondent and hence the impugned order had been made in violation of principles of natural justice. Incidentally, it may be referred to that the impugned order was passed while exercising powers under Section 5 of the Act of 1993, though the Act, in fact, came into force subsequent thereto. It may be said that this may not alter the situation in view of the fact that even prior thereto, the 3rd respondent was the competent authority.

38. Apart from this aspect of the matter, Clause 28 of the Instructions of the Government of India, dated 27-04-1962, circulated in D.Dis.No.53-9820/69 dated 14.01.1970, also had not been taken into consideration. Inasmuch as the impugned order, dated 18-03-1997, was made without following the proper procedure and without affording reasonable opportunity and in violation of principles of natural justice, this Court is of the considered opinion that the petitioners need not be driven to the revisional remedy on the strength of the decision of the Division Bench referred to supra and hence, the impugned order cannot be sustained and the same is hereby quashed. However, it is made clear that the liberty is given to the competent authority, under the Act to proceed in this regard in accordance with the Act of 1993 and the Rules framed there under, in case, he is required to do so.

39. Accordingly, the writ petition is hereby allowed by giving liberty, as specified supra. No costs.

20th January, 2005

L.R. Copy to be marked.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday the twentieth day of January, two thousand and five.

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ASSISTANT REGISTRAR

20th January, 2005.

Kvr

// True Copy //

Section Officer

One fair Copy to the Hon'ble Sri Justice P.S.Narayana, for
his Lordship's kind perual.

To

1 The State of A.P., Rep.by it's Secretary to Govt.,
Social Welfare Dept.,

Secretariat Buildings , Saifabad ,Hyderabad.

2 The Director of Tribal Welfare
Andhra Pradesh, Hyderabad.

3 The Dist. Collector,
East Godavari Distraict at Kakinada.

4 The Mandal Revenue Officer,
Maredumilli, E.G.Dist.

5 Two C.Cs to the GP for Social Welfare,

AP High Court Buildings, High Court of AP,

Hyderabad.(O.U.T.)

6. 8 L.R. copies

7. The Under Secretary, Union of India, Ministry of Law, Justice and

Company Affairs, New Delhi.

8. The Secretary, A.P. Advocates Association Library, High court

Buildings, Hyderabad.

9. Two C.D.Copies.

10. One spare copy.